

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Review of the Emergency Alert System

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EB Docket No. 04-296

**COMMENTS OF THE
SATELLITE BROADCASTING AND
COMMUNICATIONS ASSOCIATION**

I. Introduction and Summary

The Satellite Broadcasting Communications Association (“SBCA” or “Association”) hereby submits its comments to the Federal Communications Commission (“FCC” or “Commission”) in response to the above referenced Notice of Proposed Rulemaking.¹ The SBCA is the national trade association representing various entities that are engaged in the delivery of television, radio and broadband services directly to consumers via satellite. The Association’s members include C-Band and Direct Broadcast Satellite (“DBS”) carriers and distributors; programming services that offer entertainment, news and sports to consumers over satellite platforms; satellite equipment

¹ *Review of the Emergency Alert System*, Notice of Proposed Rulemaking, 19 FCC Rcd. 15775 (2004) (“NPRM” or “Notice”).

manufacturers and distributors; and satellite dealers and retail firms that sell systems directly in the consumer marketplace.

The satellite industry supports the Commission's efforts to keep the nation's public alert and warning systems up to date, and, in this regard, SBCA's two largest members participate in the Commission's Media Security and Reliability Council ("MSRC"). More specifically, SBCA supports this much-needed reexamination of the Emergency Alert System ("EAS").

EAS is, however, only one of many tools used to disseminate emergency information.² Americans receive such information from a multiplicity of sources, including broadcast and cable television networks, radio, the Internet, cell phones, Blackberrys and other technologies. During the September 11 terrorist attacks, for example, no single communications path dominated. Rather, each path supplemented others, and a wide variety of actors cooperated in formal and informal ways to make this so. When landline and mobile phone lines became congested, people turned to the Internet and instant messaging for information.³ Such diversity and cooperation ensures a robustness that serves Americans far better than any single source ever could.

As a general matter, therefore, SBCA urges the FCC to examine EAS *not* in isolation, but in the context of *all* emergency information distribution pathways. This means both that the FCC must avoid "improvements" to EAS that would jeopardize other

² See Media Security and Reliability Council, Comprehensive Best Practices Recommendations (Mar. 2, 2004), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-244391A1.pdf ("MSRC Best Practices") (referring to a "public/private partnership that makes coordinated use of mass media and other dissemination systems" as well as the "development of alternative, redundant and/or supplemental means of communicating emergency information to the public").

³ See Cade Metz, "A Year Ago, Technology Provided a Foothold," PC Magazine, Sept. 6, 2002, available at <http://www.pcmag.com/article2/0%2C1759%2C519007%2C00.asp> (discussing extensive use of instant technology on September 1); see also <http://www.bigblueball.com/news2/article.asp?id=84> (discussing the use of instant messaging to relay news received from radio and television broadcasts on September 11).

emergency information sources, and that it should not mandate EAS participation where it is unnecessary in light of other emergency information sources.

The Commission should also recognize that satellite operators – unlike television broadcasters and cable operators – have national footprints, and that technological limitations result from this sort of network architecture. These limitations, and the corresponding burdens associated with satellite implementation of EAS, counsel against mandating satellite EAS participation particularly if such participation would provide only marginal improvements over the *status quo*.

These general considerations should govern the Commission’s inquiry into the *NPRM*’s specific proposals. DBS operators could, with sufficient lead time, participate in the *national* EAS system, although in a manner that would look very different than the EAS message formats currently prescribed for cable operators and broadcasters. But such participation would entail technical and operational difficulties – including potential interference with more useful local broadcast EAS information. SBCA thus urges the Commission to consider whether – in light of the information already available to DBS subscribers – participation in the national EAS program would serve the public interest.

Attempting to fit the “square peg” of satellite’s national footprint into the “round hole” of *state and local* EAS is far more complex and problematic. DBS operators would have to create a localized distribution mechanism from scratch, the feasibility and costs of which would likely be inestimable because of the number of variables and unknowns involved. For example, such a mechanism would have to overcome any number of technical and operational hurdles, including managing the sheer number of alerts to be

handled, specifying the severity of emergency required to activate the system, and (most importantly) devising a method for distributing information only to those who need it.

II. DBS Participation in a National Emergency Alert System

Satellite services distribute programming primarily through a national footprint. DBS operators thus generally provide the same subscription programming to all subscribers throughout the country at the same time, with the limited exception of local-into-local retransmissions of broadcast signals. The DBS system architecture would therefore be best suited to the distribution of national messages, and, by extension, to potentially participate in the national EAS system.

Engineers with SBCA's member companies currently believe that the most plausible mechanism for distributing EAS information to millions of DBS subscribers at one time would likely be delivery of a short text message onto a limited portion of every subscriber's television screen. Such a text message could, for example, instruct subscribers to tune to their local broadcast stations or national news outlets for further information.

The text messaging approach is not without difficulties. It would, for example, require significant investments in new hardware and software and adequate time to develop the system. Moreover, it would require DBS operators to set aside substantial (and duplicative) bandwidth in order to reach subscribers from all transmission points (that is, each uplink center and each satellite, and each spot beam on spot beam satellites). It may not be possible for such text messages to be recognized by millions of "legacy" set top boxes, or, for that matter, by digital video recorders in playback mode. And, of course, all of this assumes that there exists a method for getting EAS information *to* DBS

operators in a format that would allow them to, in turn, retransmit the information to subscribers quickly enough to be of any use.

In considering the wisdom of such a mechanism, the FCC should, first, consider the extent to which it would work at cross-purposes with other emergency information dissemination outlets, including broadcast EAS. DBS operators now pass through all national *and* state and local EAS information as part of their local-into-local retransmissions. Anyone watching a local channel on DISH Network or DIRECTV will receive the same EAS information as if they were watching that channel over the air. This, however, presents a problem with respect to satellite EAS “text messaging”: if the message generated by the satellite operator were presented in the form of a “crawl” on viewers’ screens, the satellite crawl could obscure information provided by a local broadcaster, which might contain data more relevant to the viewer’s particular location.

Indeed, the possibility of such interference is a prime example of why the FCC should not consider satellite EAS in isolation. National EAS text messaging may well prove useful to DBS viewers. If implemented reflexively and without careful consideration, however, it could actually interfere with some of the most important existing distribution paths for such information. If the Commission decides to explore satellite participation in the national EAS system, it should take into account its effect on *the totality* of emergency communications. For example, the Commission could limit such participation to dissemination of text alerts on the satellite systems’ nationally distributed channels such as ESPN or HGTV (as opposed to local channels).

More broadly, it is by no means clear to SBCA that DBS participation in national EAS would yield sufficient improvements over the *status quo* to justify the resources and

effort necessary to implement it. In this regard, the *status quo* for DBS subscribers is not simply “no EAS.” All DBS subscribers have access to multiple national news sources,⁴ and more than 90 percent of the population has access to local stations via satellite (including local stations’ EAS broadcasts) – along with all the other means of obtaining emergency information available to them. With respect to delivery of a Presidential Message, DBS subscribers are likely to have even greater access to information. On September 11, for example, many general entertainment cable networks replaced their feeds with CNN, Fox News, and other national news programs:

[*60 Minutes* creator Don] Hewitt, along with other network executives who praised the first week's coverage, pointed especially to the spirit of cooperation that prevailed among the usually bitterly competitive news divisions. . . . [T]he networks shared video footage. Also, many non-news cable networks gave themselves over to other networks' news coverage for several days: ESPN broadcast ABC News; VH1 and MTV broadcast CBS News; TBS and TNS broadcast CNN; Court TV broadcast CNN after 10:00 P.M.; and the Learning Channel broadcast the BBC. . . . [T]his collective news-gathering and news-broadcasting enterprise lent television a spirit of national community rarely seen since the advent of cable. ‘The national campfire,’ [Peter] Jennings called it, with some justification, as we all huddled around it.⁵

⁴ DIRECTV carries the following news channels: BBC America, Bloomberg TV, CNBC, CNBC World, CNN, CNNfn, Fox News Channel, Headline News, MSNBC, Newsworld International. See http://www.directv.com/DTVAPP/learn/Packages_Comparison.dsp.

DISH Network carries the following news channels: BBC America, Bloomberg TV, CNBC, CNBC World, CNN, CNNfn/CNNI, Fox News, Headline News, MSNBC. <http://www.dishnetwork.com/downloads/pdf/programming/CUST100ChannelCard.pdf>

⁵ Scott Stossel, “Terror TV,” *The American Prospect*, Oct. 22, 2001, available at www.prospect.org/print-friendly/print/V12/18/stossel-s.html. See also “CPR Facts” (a publication of the Cable Television Public Affairs Association) Sept. 21, 2001, available at http://www.ctpaa.org/cpr/CPR_9.21.01.doc (“Beginning September 11 viewers across the country turned to cable to find out what had happened. Cable news networks, such as CNN, Fox News and MSNBC, provided continuing, 24-hour news coverage to inform their viewers of the latest developments. On September 11 and 12, many cable programmers opted to show news coverage from a sister network instead of their regularly scheduled programming. They included BBC America, The Learning Channel, Turner’s entertainment networks, MTV, VH1, CMT, Fox entertainment, and ESPN networks. CourtTV covered the events live or showed CNN coverage of the events. Food Network, HGTV, HSN and others ran a message that told its viewers to tune to a news network.”)

MSRC, in which the two largest SBCA members participate, has encouraged similar cooperation in the event of future emergencies.⁶ In many cases, these alternatives may prove to be a more effective way to disseminate emergency information than DBS “text message” participation in the national EAS.

All of this is not to say that satellite operators cannot or will not participate in national EAS. However, given the wide variety of emergency information sources available to DBS subscribers, such participation may well not generate sufficient public interest benefits when balanced against the enormous technical and operational challenges posed by such a requirement. SBCA urges the Commission to take this into account as it considers potential satellite participation in the national EAS program.

III. Satellite Participation in State and Local EAS

Satellite participation in national EAS would be possible, if somewhat difficult. Satellite participation in *state and local* EAS, however, is a far more daunting proposition. Here again, the Commission must consider whether mandating such participation – assuming participation is even possible – makes sense in a world where DBS subscribers today get emergency information from a wide range of sources.

State and local EAS is an extremely localized system. It is a tool for state and local authorities to dispatch area-specific information. Broadcast and cable systems are natural outlets for this type of information due to their localized nature. For example, if there is an emergency in Arlington County, Virginia, it is a relatively simple matter for Comcast of Arlington to transmit the appropriate information to Arlingtonians, and only Arlingtonians.

⁶ See MSRC Best Practices.

DBS systems, by contrast, have a national footprint.⁷ Because of this, SBCA's initial assessment is that it would be extremely cumbersome for DBS operators to participate more broadly in EAS on a state or local level – *i.e.* to transmit information via nationally distributed programming about an emergency to subscribers in Arlington Virginia (but not to those in, say, Arlington Texas):

- DBS operators cannot now receive and disseminate emergency information on a localized basis. And there exists no obvious method by which they could do so in the short to intermediate term. DBS operators would thus have to devise a mechanism for localized reception and distribution from scratch – at a cost and requiring an effort that would likely be inestimable given the unknowns and variables involved.
- Even assuming DBS operators could create such a mechanism to operate over their next generation DTH distribution systems, the logistics of managing such a system would be overwhelming at best. One potential concern involves the sheer volume of potential alert messages. Each cable operator must activate the state or local EAS system only when there is an “event” in its particular area. Any cable operator thus has at most a handful of emergencies per year that trigger the EAS. But if a single DBS operator were required to activate the system every time there was a severe thunderstorm anywhere in the United States, the burden on the operator would be enormous.
- There are also questions concerning who would be authorized to generate the information and what level of “emergency” would be required to prompt

⁷ While spot beam satellite technology provides programming on a more localized basis, spot beams carry only local broadcast content that is already subject to EAS requirements – *i.e.*, all programming retransmitted within spot beams already contains the appropriate state and local EAS information.

mandatory state and local participation. Each increase in the number of officials authorized to activate the EAS and the number of circumstances for which the EAS can be activated brings a corresponding increase in the burden on DBS operators. And even if these logistical hurdles are overcome, there is no assurance that a satellite operator would be able to complete any necessary process for targeting an EAS alert to a specific area before the emergency situation has subsided.

Satellite participation in state and local EAS, then, would involve a burden the magnitude of which satellite operators cannot begin to estimate, assuming it is possible at all. The Commission must decide whether, given the likely technical and logistical burdens, requiring satellite operators to move in this direction makes sense as a public policy matter, particularly since DBS subscribers already have abundant access to local and state emergency information from this array of sources, and these burdens would at best result in systems that only complement other tools already available. SBCA questions the wisdom of such a policy.

IV. Conclusion

As the FCC re-examines EAS, it should consider carefully the appropriate role for satellite providers in the pantheon of America's emergency information distribution. SBCA's members pledge to continue working with the FCC and MSRC to explore the role that satellite may play in EAS and, more generally, to ensure that our nation has a reliable and functional emergency alert system.

Satellite Broadcasting and
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